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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT SEATTLE

11 RICHARD CARMICHAEL,

12 Plaintiff,

13 v.

14 WILLIAM RILEY, *et al.*,

15 Defendants.

CASE NO. C06-5542 RJB/KLS

ORDER GRANTING PLAINTIFF'S
MOTION FOR APPOINTMENT OF
COUNSEL AND DIRECTING CLERK
TO APPOINT COUNSEL FROM PRO
BONO PANEL

16 This is a civil rights action brought under 42 U.S.C. § 1983. Plaintiff is a Washington
17 state prisoner who, until recently, was housed at the Ely State Prison in Ely, Nevada. Plaintiff
18 alleges that Defendants violated his Eighth Amendment rights by intentionally revealing
19 confidential and fabricated information to prisoners and prison officials to slander and endanger
20 Plaintiff's life. Plaintiff further alleges that after Plaintiff's life had been placed in danger, DOC
21 Defendants acted with deliberate indifference to his welfare by failing to remove Plaintiff from
22 danger.

23 Currently pending before the Court are Plaintiff's Motions for Appointment of Counsel
24 (Dkt. # 71) and for reconsideration of the Court's Order denying Plaintiff's Motion to
25 Correspond with Washington State Prisoners (Dkt. # 69). Defendants oppose the motion for

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1 appointment of counsel. (Dkt. # 73). Plaintiff has filed a reply. (Dkt. # 77). Having reviewed
2 Plaintiff's motions, Defendants' responses thereto, and the balance of the record, the Court
3 hereby finds that Plaintiff's motion for the appointment of counsel shall be granted.

4 **DISCUSSION**

5 While there is no right to have counsel appointed in cases brought under 42 U.S.C. §
6 1983, the Court, under 28 U.S.C. § 1915(d), can request counsel to represent a party proceeding
7 *in forma pauperis* in exceptional circumstances. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331
8 (9th Cir. 1986); *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984); *Aldabe v. Aldabe*,
9 616 F.2d 1089 (9th Cir. 1980).

10 Plaintiff's original complaint survived Defendant's motion to dismiss, demonstrating that
11 his claims are neither malicious nor frivolous. The nature of Plaintiff's claims are such that this
12 Court finds that it and Plaintiff would benefit from the assistance of counsel. Although
13 Plaintiff has demonstrated an ability to articulate his claims, the Court is particularly concerned
14 about Plaintiff's ability to properly engage in legal research and discovery when witnesses and
15 evidence are located in Nevada and Washington and Plaintiff is housed in solitary confinement.
16 For these reasons, the Court finds that the difficulties claimed by Plaintiff are not of the type
17 which any litigant would have in proceeding pro se.

18 Given the seriousness of the issues presented and the need for efficient resolution of
19 those issues, this Court is satisfied that exceptional circumstances exist which warrant the
20 appointment of counsel in this matter.

21 It is, therefore, **ORDERED**:

22 (1) Plaintiff's Motion for Appointment of Counsel (Dkt. # 71) is **GRANTED**;

23 (2) Pursuant to the Plan of the United States District Court for the Western District of
24 Washington at Tacoma for the Representation of Pro Se Litigants in Civil Rights Actions, and

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1 the Rules Governing Pro Bono Panel, the Clerk is directed to appoint an attorney to represent
2 Plaintiff.

3 (3) Plaintiff's Motion for Reconsideration (Dkt # 75) regarding the Court's Order
4 Denying Plaintiff's Motion to Correspond with Washington State Prisoners (Dkt. # 69) will be
5 held in abeyance pending appointment of counsel. The Clerk is instructed to **REMOVE**
6 Plaintiff's Motion (Dkt. # 75) from the Court's calendar at this time. Once counsel is
7 appointed to represent Plaintiff, the Court will invite further briefing on the issues raised by
8 Plaintiff in his motion, and will place the motion back on the calendar for consideration.

9 (4) The Clerk is directed to send copies of this Order to Plaintiff, to counsel for
10 Defendants, and to the Hon. Robert J. Bryan.

11 DATED this 25th day of February, 2008.
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14 Karen L. Strombom
15 United States Magistrate Judge
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